
**Request for Statement of Qualifications
Municipal Advisor to Financing Charter Schools
State of Utah
Utah Charter School Finance Authority, Conduit Issuer**

**Issued by: The Utah Department of Administrative Services
Division of Purchasing & General Services**

Solicitation #:

Issue Date:

Questions Due:

Responses Due:

REQUEST FOR STATEMENT OF QUALIFICATIONS

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PART 1: OVERVIEW, SCOPE OF SERVICES AND INSTRUCTIONS

1.0 Introduction to Request for Statement of Qualifications (RFSQ)

1.1 Definitions

As used in this RFSQ:

- a. "Contract" means an agreement, pursuant to specified terms, entered into by the Utah Charter School Finance Authority (UCSFA) and a financial advisory firm to provide municipal financial advisory services related to the issuance of debt by a charter school utilizing the UCSFA as its conduit.
- b. "School" or "Financing Charter School" means a Utah charter school that issues bonds through the UCSFA as its conduit.
- c. "Firm" or "Responding Firm" means an entity responding to this RFSQ.
- d. "Prequalified Firm" means a Firm selected as a result of its response to this RFSQ, prequalified to bid in response to Invitations to Bid issued by Schools.
- e. "Invitation to Bid" means a request, issued by a School to all Prequalified Firms, for a complete, firm and final fee quote.
- f. "Participating Entity Addendum" means the addendum, entered into between a School and a Prequalified Firm, which appends to the Contract between the UCSFA and the Prequalified Firm.
- g. "Response" means the response to this RFSQ.
- h. "RFSQ" means this Request for Statement of Qualifications.
- i. "UCSFA" means the Utah Charter School Finance Authority, an instrumentality of the State of Utah.

1.2 Statement of Purpose

The purpose of this RFSQ is to identify and select Prequalified Firms that will be authorized to provide municipal financial advisory services to Financing Charter Schools.

1.3 UCSFA Background

The UCSFA manages the issuance of revenue bonds, or other financing instruments, on behalf of certain charter schools in Utah. Bonds are issued either as unenhanced conduit bonds, wherein the UCSFA acts as conduit issuer, or as enhanced conduit bonds, wherein the State of Utah additionally provides a means for replenishing a qualifying charter school's debt service reserve fund pursuant to the Utah Charter School Credit Enhancement Program (see description in Appendix A).

1.4 Relationship of RFSQ to Subsequent Invitation to Bid

It is anticipated that this RFSQ will result in contract awards by the UCSFA to multiple Firms which, once prequalified by an Evaluation Committee, will be eligible to serve as municipal advisor to charter schools on financings obtained through the UCSFA. Schools wishing to utilize the UCSFA as conduit issuer will issue an Invitation to Bid to all Prequalified Firms and subsequently select the Prequalified Firm whose bid proves most beneficial to the school.

1.5 Scope of Services

To be prequalified, a Firm must agree to provide the following services to a School:

- a. Assist in the preparation of any application to the UCSFA to act as conduit issuer and/or to apply for the State's Charter School Credit Enhancement Program.
- b. Provide advice and recommendations to the School on financing techniques and options.
- c. Prepare comprehensive schedules and agendas for financing team meetings, including analysis of the timing of the sale in light of competing supply, prevailing interest rates, investor demand, economic conditions, and other factors.
- d. Participate in all financing team meetings and conference calls.
- e. Analyze and make recommendations on all aspects of the School's financing including: method of sale, timing of sale, economic considerations, market conditions, maturity structures, interest rates, redemption provisions, financial and non-financial covenants, debt service requirements, evaluation of bond pricing, evaluation of syndicate and any retail selling group members, monitoring bond allocations, settlement and post-settlement analyses, and any other post-settlement service as may be reasonably requested.
- f. Examine, evaluate, and recommend an overall financing plan that would result in the lowest, risk-adjusted cost of borrowing to the School over the life of the debt, including the effect of call provisions.
- g. Provide timely financial analyses, debt service schedules, feasibility analyses, coverage calculations, etc. for officers and board members of the School.
- h. Lead Schools in the preparation and presentation of information for credit rating agencies, the bond market, the UCSFA, and the media.
- i. Assist in the preparation, review and publication of the preliminary and final official statements and all other documents related to the marketing and issuance of securities.
- j. Lead Schools in the competitive procurement, evaluation, and selection of underwriters/investment bankers, credit facility providers, trustees, escrow verification agents, CPA verification agents, and other professional service providers, including preparation of requests for proposals, review and evaluation of those proposals and interviewing of responding providers.
- k. Provide Schools with recommendations regarding order priority, takedown designations, use of retail order periods, and the use and composition of selling groups. Provide independent price guidance for each maturity across a range of couponing alternatives. Analyze and recommend fair pricing levels based on historical transactions and the pricing of comparable credits in the then current municipal bond market.
- l. Provide transaction summaries immediately after a bond sale. These summaries outline pricing performance, orders and allocations, market dynamics and other relevant issuance data.
- m. Maintain cost of issuance schedules on all debt issuances.
- n. Monitor and evaluate refunding opportunities with respect to outstanding obligations using nominal and present value savings criteria.
- o. For refunding issues involving an escrow, assist with the submission of SLGS subscriptions and/or structure and procure open market securities for escrows on a security-by-security basis (as circumstances warrant). Coordinate the successful delivery of securities at closing.
- p. Assist School officials in the preparation and review of secondary market disclosure materials if requested.
- q. Assist School officials with post-issuance compliance issues such as arbitrage rebate, spending tests under the tax code, continuing disclosure, etc.

2.0 Informational Items

2.1 Response Format

All Responses must include:

1. **Multi-Step Bid Form.** The State's multi-step bid form (**Attachment B**) completed and signed by the Firm.
2. **Executive Summary.** A one or two page executive summary can be used to briefly describe the Firm's Response. This summary should highlight the major features of the Response. It must indicate any requirements that cannot be met by the Firm. The reader should be able to determine the essence of the Response by reading the executive summary.
3. **Detailed Response.** This section should constitute the major portion of the Response and must contain at least the following information:
 - a. A specific point-by-point response, in the order listed, to each requirement within **Part 2: Information Required in Submission of a Response** of the RFSQ ("Minimum Qualifications" and "Firm Qualifications"). The UCSFA recommends that the Firm re-state questions (delineated by bold font) contained within this RFSQ with the corresponding answers (delineated by non bolded font) following each question.
 - b. In any case wherein the Firm cannot comply with a requirement outlined under section 1.5, "Scope of Services," **such inability must be stated in response to the applicable requirement(s).**
 - c. Potential Conflicts of Interest - Identify any conflict, or potential conflict of interest, that might arise during the course of the project. If no conflicts are expected, include a statement to that effect in the Response.
4. **Protected Information.** All protected information must be included in this section of the Response. Do not incorporate protected information throughout the Response; rather, provide a reference in the Response directing reader to the specific area of the "Protected Information" section.

2.2 Administrative Guidance

The information provided in this RFSQ is intended to assist Firms in preparing Responses, but is not intended to limit a Response's content or to exclude any relevant or essential data. Responding Firms are encouraged to expand upon the specifications to give additional evidence of their ability to provide the services requested in this RFSQ.

2.3 Issuing Procurement Unit and RFSQ Reference Number

The State of Utah Division of Purchasing is the issuing procurement unit for this RFSQ and all subsequent addenda relating to it, on behalf of the UCSFA. The reference number for the transaction is **Solicitation # [REDACTED]**. This number must be referred to on all Responses, correspondence, and any other documentation relating to this RFSQ.

2.4 Submitting a Response

By submitting a Response to this RFSQ, the Firm acknowledges and agrees that the requirements, scope of services, and the evaluation process outlined in the RFSQ are understood, fair, and equitable, and are not unduly restrictive.

Notification to the State of any ambiguity, inconsistency, excessively restrictive requirements, errors in the solicitation documents, solicitation questions, or exception to the scope/content of the RFSQ *must* be submitted as a question through SciQuest during the solicitation process and prior to the due date and time for questions. Exceptions to scope/specifications of the RFSQ that have not been previously addressed within the Q&A period of the procurement will be disallowed.

The State prefers that you submit your Response electronically through SciQuest. However, if you choose to submit your Response in hard copy form, one original and four identical copies of your response must be received prior to the posted due date and time at the following address:

State of Utah Division of Purchasing,
3150 State Office Building, Capitol Hill
P.O. Box 141061
Salt Lake City, Utah 84114-1061

Facsimile transmission of bids to the Division will not be considered.

When submitting your Response electronically through SciQuest, please allow sufficient time to complete the online forms and to upload your Response documents. The solicitation will end at the closing time posted in SciQuest. If you are in the middle of uploading your Response when the deadline is reached, the system will stop the upload process and your Response will not be accepted by SciQuest, and your attempted submission will be considered as non-responsive.

Each of the following steps in SciQuest **MUST** be completed in order to submit a response:

- A. Login to www.SciQuest.com;
- B. Locate the bid (solicitation) to which you are responding;
 1. Click the "Search" tab on the top left of the page;
 2. Enter keyword or bid (solicitation) number and click "Search";
- C. Click on the "Bid title/description" to open the Bid (solicitation) Information Page;
- D. "View and Accept" all documents in the document section;
- E. Select "Place Offer" found at the bottom of the page;
- F. Enter your proposal pricing, notes, other required information and upload attachments to this page;
- G. Click "Submit" at the bottom of the page;
- H. Review Offer(s); and
- I. Enter your password and click "Confirm".

Note that the final step in submitting a Response involves the Firm's acknowledgement that the information and documents entered into the SciQuest system are accurate and represent the Firm's actual response. This acknowledgement is registered in SciQuest when the Firm clicks "Confirm".

SciQuest will post a notice that the response has been received. This notice from SciQuest MUST be recorded prior to the due date and time or the response will be considered late and will not be accepted.

Responses submitted in SciQuest are completely secure. No one (including state purchasing staff) can see responses until after the deadline. Firms may modify or change their response at any time prior to the closing deadline. However, all modifications or changes must be completed and acknowledged (Confirm) in the SciQuest system prior to the deadline. SciQuest will post a notice that the modification/change (new response) has been received. This notice from SciQuest MUST be recorded prior to the due date and time or the response will be considered late and will not be accepted.

Utah Code 46-4-402(2) Unless otherwise agreed between a sender (Firm) and the recipient (State Purchasing), an electronic record is received when: (a) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and (b) it is in a form capable of being processed by that system.

Electronic Responses may require uploading of electronic attachments. SciQuest's site will accept a wide variety of document types as attachments. However, the State of Utah is unable to view certain documents. Therefore, **do not** submit documents that are embedded (zip files), movies, wmp, encrypted, and mp3 files. All documents must be uploaded in SciQuest as separate files.

2.5 Questions

All questions *must* be submitted through SciQuest (www.SciQuest.com). Questions submitted through any other channel will not be answered. Only answers disseminated by the State through the SciQuest system or through an authorized and properly issued addendum shall serve as the official and binding position of the State.

2.6 Award of the Contract

Contracts placing firms on the Prequalified Firm list may be executed with the Firms selected as described in section 5.0, and whose responses are the most advantageous to Schools and the State.

Once the list of Prequalified Firms is established by the State and Contracts are awarded, all Schools thereafter securing financing through the UCSFA shall issue an Invitation to Bid with all Prequalified Firms to solicit a firm and final cost response, which must include all projected out-of-pocket expenses. Once selection is made pursuant to the Invitation to Bid initiated by the School, the School and selected Prequalified Firm will execute a Participating Entity Addendum to the UCSFA's Contract with the Prequalified Firm.

2.7 Length of Pre-Qualification/Contract Period

The Contract period will be 18 months: Firms that are selected as a result of this RFSQ will be included on the Prequalified Firms list for a period of 18 months, pursuant to UCA 63G-6a-410.

Ongoing inclusion on the list of Prequalified Firms will be subject to periodic review and approval by the UCSFA. The UCSFA reserves the right to remove Prequalified Firms from the Prequalified Firms list prior to the end of the initial Contract period or any extension thereof if the UCSFA becomes aware of significant diversions in a Prequalified Firm's performance relative to the scope of services outlined in section 1.5 or if unacceptable changes are made in a Prequalified Firm's personnel, as detailed by the Prequalified Firm within its responses to section 4.2 of this RFSQ.

2.8 Incurring Costs

UCSFA will not be liable for costs that Firms may incur in connection with the preparation, submission, or presentation of their Responses, including all travel, dining, lodging, and communication expenses. Responses should be concise, straightforward, and prepared simply and economically. Expensive displays, bindings, or promotional materials are neither desired nor required. However, these instructions should not limit a Response's content or exclude any relevant or essential data.

UCSFA will not be liable for any costs of a successful Firm relating to conducting Contract negotiations, including drafting, research, legal review, preparation, attending meetings, travel, dining, lodging, and communication expenses.

2.9 Addenda to RFSQ

Firms should periodically check SciQuest for posted questions, answers and addenda. Any modification to this procurement will be made by addendum issued by the State Division of Purchasing. Only authorized and properly issued addenda shall constitute the official and binding position of the State. Any response to this RFSQ which has as its basis any communications or information received from sources other than this RFSQ or related official addenda could be considered non-responsive and be rejected at the sole discretion of the State.

2.10 Other Communications

During the RFSQ process (from the date of issue through the date of contract award or other final decision), the Division of Purchasing will be the sole source of official information regarding this RFSQ. Any and all oral agreements or conversations are not binding on UCSFA. Signed, written agreements represent the only contractual obligations of UCSFA.

2.11 Reservation of Rights

The issuance of this RFSQ in no way constitutes a commitment by UCSFA to award a Contract. UCSFA reserves the right to cancel this RFSQ at any time pursuant to UCA 63G-6a-709.

2.12 Protected Information

The Government Records Access and Management Act (GRAMA), Utah Code Ann., Subsection 63G-2-305, provides in part that:

The following records are protected if properly classified by a government entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309 (Business Confidentiality Claims);

(2) commercial information or non-individual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

* * * * *

(6) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except that this Subsection (6) does not restrict the right of a person to see bids submitted to or by a governmental entity after bidding has closed;

GRAMA provides that trade secrets, commercial information or non-individual financial information may be protected by submitting a Claim of Business Confidentiality.

To protect information under a Claim of Business Confidentiality, the firm must:

1. Provide a written Claim of Business Confidentiality *at the time the information (response) is provided to the state*, and
2. Include a concise statement of reasons supporting the claim of business confidentiality (Subsection 63G2-309(1)).
3. Submit an electronic “redacted” (excluding protected information) copy of your response. Copy must clearly be marked “Redacted Version.”

A Claim of Business Confidentiality may be appropriate for information such as client lists and non-public financial statements. Pricing and service elements may not be protected. The claim of business confidentiality must be submitted with your response on the form which may be accessed at:

<http://www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc>

An entire response cannot be identified as “PROTECTED,” “CONFIDENTIAL” or “PROPRIETARY” and may be considered non-responsive if marked as such.

To ensure the information is protected, you must include all protected information in Section 4 of your Response. Any protected information incorporated in other sections of the Response may result in release of data at no fault of the UCSFA.

All materials submitted become the property of the UCSFA. Materials may be evaluated by anyone designated by the UCSFA as part of the Evaluation Committee. Materials submitted may be returned only at the UCSFA's option.

2.13 Modifications to, or Withdrawal of, a Response

A Firm may modify or withdraw a Response at any time before the closing time and date of this RFSQ by providing the State with a written modification or written statement withdrawing the response. A response may not be withdrawn for a period of 60 days from the response due date.

2.14 Contract Terms and Conditions

Any Contract resulting from this RFSQ will include but not be limited to the State's Terms and Conditions for Professional Services (Appendix C). Requests for exemptions from, or exceptions and/or additions to the State's Terms and Conditions for Professional Services can be submitted but are strongly discouraged.

Proposed exemptions, exceptions or additions to the Terms and Conditions for Professional Services must be submitted as part of Firm's Response. Exemptions, exceptions, additions, service level agreements, etc. submitted after the date and time for receipt of Responses will not be considered. Website URLs, or information on website URLs may not be incorporated into any form of proposed exception or addition to the Terms and Conditions for Professional Services. URLs provided as part of a Response may result in that Response being rejected as non-responsive. Also, any use of URLs within the final Contract are prohibited.

The UCSFA retains the right to refuse to negotiate on exceptions should the exceptions be excessive, not in the best interest of Schools or the UCSFA, or if such negotiations or exceptions could result in excessive costs to Schools or the UCSFA, or could adversely impact existing time constraints.

If negotiations are required, Firm must provide all documents in Microsoft® Word format for redline editing. Firm must provide the name, contact information, and access to the person(s) that will be directly involved in legal negotiations.

Contracts written pursuant to this RFSQ will not be legally binding without the written approval of the director of the Division.

PART 2: INFORMATION REQUIRED IN SUBMISSION OF A RESPONSE

3.0 Minimum Qualifications

- a. Firms must be licensed to do business in Utah. Primary contacts must have a Series 52 securities license (or equivalent) and be registered as financial advisors by both the Securities and Exchange Commission (SEC) and the Municipal Securities Rulemaking Board (MSRB). **Provide copies of applicable licenses and proof of registration as part of your Response.**
- b. Firms must agree to a “not-to-exceed” fee cap. The average size of UCSFA bond issues is \$9.5 million, and there are on average five issuances arranged through the UCSFA each year. Proposed fees (excluding reimbursable out-of-pocket expenses referenced below) may not, under any configuration *except as noted below*, exceed \$5.00 per \$1,000 of bonds issued. By submitting a response in response to this RFSQ, Firm acknowledges and agrees to this not-to-exceed cap on fees.

Exception allowed: Firm may charge a fixed minimum fee of up to \$30,000 for any transaction under \$5 million.

All projected out-of-pocket expenses must be detailed in writing by a Prequalified Firm as part of the Invitation to Bid process, and, if a Prequalified Firm is selected by a School, such projected out-of-pocket expenses shall be detailed within a Participating Entity Addendum executed between the School and the Firm.

In the event that services are rendered by a Prequalified Firm which do not lead to a successful issuance of debt securities, a School shall be liable only for those out-of-pocket expenses which were disclosed in writing by the Firm in response to the Invitation to Bid and that have been approved by the School by virtue of its consent to such terms as detailed within the Participating Entity Addendum. Also in such an event, a School will not be liable for any other fees for services. In no event shall the UCSFA be liable for any expenses of a Prequalified Firm.

4.0 Firm Qualifications

4.1 Firm Description

- a. Provide history and background on your organization, including:
 - i. Its ownership structure.
 - ii. When the company was founded.
- b. Describe the financial position and strength of your company:
 - i. Is the company profitable for the past three years? Explain.
 - ii. What is the company’s total net capital?
 - iii. What was the company’s total revenue for its 2015 fiscal year?
- c. Please provide a copy of your company’s registration certificate as a Financial Advisor with the MSRB.
- d. Please describe your company’s affiliation or relationship with any broker-dealer.

- e. Please detail the amounts and types of insurance carried, including the deductible amount to cover errors and omissions, improper judgments, or negligence on the part of your company.
- f. Please indicate your company's total number of offices and the location of each.

4.2 Personnel

- a. Identify the individual(s) within your company that would serve as the primary contact for a School, and provide a copy of the individual(s) securities license(s).
 - i. Are any of the individual(s) detailed above employed in any business other than financial advisory or municipal underwriting? If so, please describe that employment and how many hours per week the individual(s) spend in such business.
- b. List the names, titles, addresses, phone numbers, and e-mail address for all personnel that will have ongoing responsibility for servicing Utah charter schools. Provide a brief summary of each person's background and experience in public finance. Include relevant professional designations.
- c. Describe each individual's experience with charter school financings and the role they would play in the issuance of Utah charter school bonds. Also, if applicable, detail each individual's experience in capacities other than municipal advisor (i.e. as an underwriter, a bond attorney, a trustee, etc.) in the area of municipal finance.
- d. Provide an organization chart showing the operating interrelationships and authority within your entire organization, highlighting staff members in key roles.
- e. Detail any existing or potential conflict of interest that your company might have if selected as a Prequalified Firm to serve Financing Charter Schools.

4.3 Experience

- a. Describe your company's overall qualifications and experience in investment banking and municipal advisory work, with particular emphasis on your municipal advisory relationships.
- b. In an appendix, provide a list of all of your company's financial advisory experience since January 1, 2012. The list should include the name of the issuer, the date of the bond issue, the par amount of the issue, ratings, underwriter, and type of issue.
- c. In an appendix, provide a list of all of your company's experience as financial advisor to charter schools since January 1, 2012. The list should include the name of the issuer, the date of the bond issue, the par amount of the issue, ratings, underwriter, and type of issue.
- d. Describe any innovations you have developed for municipal bond issuers or for the benefit of charter school issuers.
- e. Identify the resources and analytical tools your company would utilize to provide charter school clients with debt structuring, monitoring of refinancing opportunities, modeling, and technical analysis. Specifically:
 - i. Please identify the bond structuring software your company uses.
 - ii. In an appendix, provide a sample debt service schedule produced by your company's bond structuring software application.
 - iii. Does your firm maintain a license for Bloomberg terminal? If not, do you have access to one and, if so, through whom? If so, provide documentation verifying your company's license.

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- iv. Does your firm maintain a license for a base level subscription to TM3? If not, do you have access to the service and, if so, through whom? If so, provide documentation verifying your company's license.
 - v. Do you subscribe to The Bond Buyer?
 - vi. To which rating agency reports do you subscribe?
 - vii. Do you have an account on the MSRB's EMMA website?
- f. Describe your company's experience during the past three years with the national rating agencies and your approach to helping a charter school obtain an investment grade rating.
- g. Please describe how you determine or verify the appropriateness of an underwriter's proposed pricing scale. What tools and resources do you use to accomplish this?

4.4 References

Provide two references of issuers for which your company has served as municipal advisor in the last three years that can be contacted by the UCSFA. Identify the primary contact (name, title, address, telephone and e-mail) and identify the relevant transaction(s) or extent of the relationship.

4.5 Current Litigation

Identify and describe any current litigation or investigation by a regulatory authority that your company, its officers or principals have been involved in within the last three years relative to your services as financial advisor.

4.6 Other

Provide any other information you believe will be useful to the State in evaluating your qualifications for serving as municipal advisor for charter school bonds issued through the UCSFA.

PART 3: RESPONSE EVALUATION

5.0 Response Evaluation

5.1 Evaluation Criteria Summary

<u>WEIGHT</u>	<u>EVALUATION CRITERIA</u>
5%	Firm's financial strength & location
35%	Personnel experience and team depth
50%	Firm's Experience
<u>10%</u>	Compliance, litigation, references & other information
100%	

If a Firm scores **60% (600 points) or greater** on the RFSQ Evaluation Scoresheet, conforms with the Minimum Qualifications outlined in section 3.0, and is able to comply in full with all Scope of Services requirements outlined in section 1.5, the Firm may be deemed eligible for prequalification and can enter into contract negotiations with the UCSFA if selected by the Evaluation Committee.

If a Firm's score is less than 60%, or if the Firm fails to meet the Minimum Qualifications or is unable to comply in full with all Scope of Services requirements, the Firm will be considered ineligible for prequalification.

5.2 Evaluation Process

All Responses submitted will be evaluated by an Evaluation Committee in a manner consistent with the Utah Procurement Code, rules, policies, and the evaluation criteria set forth in this RFSQ. Each Firm bears sole responsibility for the items included or not included within the Response that it submits.

The Evaluation Committee will review all Responses timely received to determine their responsiveness to the RFSQ. Non-responsive Responses (that is, Responses that fail to conform to all material respects of this RFSQ), will be disqualified from further consideration.

The State specifically reserves the right to disqualify any Response for:

- a. a violation of the Utah Procurement Code;
- b. a violation of a requirement of this RFSQ, including significant deviations or exceptions;
- c. unlawful or unethical conduct;
- d. a change in circumstances that, had the change been known at the time the response was submitted, would have caused the response to be disqualified or not have the highest score; or
- e. failure to meet Minimum Qualifications as detailed herein under section 3.0.

The Evaluation Committee will evaluate and score conforming Responses against the weighted

evaluation criteria detailed on the RFSQ Evaluation Scoresheet (**Appendix D**), and as summarized in section 5.1.

5.3 Discussions with Firms (Optional)

After Responses are received and evaluated, the procurement officer may conduct discussions with the Firms and allow the Firms to make best and final offers after discussions.

If discussions are held, the procurement officer will:

- a. ensure that each Firm receives fair and equal treatment with respect to the other Firms;
- b. establish a schedule and procedures for conducting discussions;
- c. ensure that information in each response and information gathered during discussions is not shared with other Firms until the Contract is awarded;
- d. ensure auction tactics are not used in the discussion process, including discussing and comparing the features of other Responses; and
- e. if necessary, set a common date and time for the submission of best and final offers.

If a Firm chooses not to participate in a discussion or does not make a timely best and final offer, the offer submitted by the Firm before the conduct of discussions shall be treated as the firm's best and final offer.

5.4 Oral Presentations (Optional)

If it is determined by the procurement officer that oral presentations are necessary to assist the Evaluation Committee in finalizing the scoring of responses, they will be scheduled by the procurement officer.

The Firm's original response cannot be changed in any aspect at the oral presentation. The oral presentation will provide Firms with the opportunity to discuss with the Evaluation Committee any aspects of their response that might contribute to their prequalification.

Firms are advised that the Evaluation Committee will be afforded the opportunity to revise their evaluation scores based upon the oral presentation.

The procurement officer will establish a date and time for the oral presentations and will notify eligible Firms of the protocols, procedures, and structure of the oral presentations. Oral presentations will be made at the Firm's expense.

5.5 Interview (Optional)

The purpose of the interview is to allow the Firm to present its qualifications, experience, and plan for complying with scope of services requirements. It will also provide an opportunity for the Evaluation Committee to seek any needed clarification from the Firm. The procurement officer will notify eligible Firms of the date and time of the interview and who should be in attendance. The method of presentation is at the discretion of the Firm.

PART 4: CONTRACT ITEMS

6.0 General Contract Items

6.1 Assignment

The firm shall not assign or subcontract any portion of its obligations under the Contract without prior written consent of the UCSFA. Assignment or subcontracting shall in no way relieve the firm of any of its obligations under the Contract.

6.2 Compliance

The firm hereby agrees to abide with all applicable federal, state, county, and city laws and regulations and to be responsible for obtaining and/or possessing any and all permits and licenses that may be required.

6.3 Cancellation

Inadequate delivery, unsatisfactory service, or failure to adhere to the Contract covenants may result in cancellation of the Contract. The Firm shall be responsible for reimbursing the UCSFA and/or a School for expenses incurred as a result of unacceptable service. In the event that either party determines a material breach has occurred that would be cause for cancellation of the Contract, the party wishing to cancel shall notify the other party of the alleged breach in writing and allow the other party 30 days in which to cure the alleged breach. If the alleged breach is not cured or substantial steps to cure the alleged breach are not taken within this period, the non-defaulting party may cancel the Contract at the end of said 30-day period.

6.4 Acceptance of Services Rendered

UCSFA, through its designated representatives, will be the sole determining judge of whether services rendered under the Contract satisfy the requirements as identified in the Contract.

Such certificates shall provide the UCSFA with 30-calendar-days' written notice prior to the cancellation or material change of the applicable coverage, as evidenced by return receipt or certified mail, sent to the above address.

6.5 Records and Audit Rights

Any firm providing goods or services under any contract shall maintain accurate accounting records for all goods and services provided under the Contract and shall retain all such records for at least four years following termination of the Contract. Upon reasonable notice and during normal business hours, UCSFA or any of its duly authorized representatives shall have access to and the right to audit any records or other documents pertaining to the Contract. The UCSFA's audit rights shall extend throughout the term of the Contract and for a period of at least four years thereafter.

6.6 Relationship of the Parties

In assuming and performing the obligations of any contract, UCSFA, the School, and any Firm shall each be acting as independent parties and shall not be considered or represent itself as a joint venture, partner, employee or agent of any other.

6.7 Equal Opportunity

No Firm party to any Contract shall discriminate against any employee, applicant for employment, or recipient of services on the basis of veteran status, race, religion, color, sex, age, disability, or national origin.

6.8 Remedies

The laws of the State of Utah shall apply in all disputes arising out of this RFSQ and the ensuing Contract, without application of any principles of choice of laws. All disputes will be heard in Utah District Court in Salt Lake City, Utah.

6.9 Other

All provisions of this RFSQ, including those outlined under section 1.5 Scope of Services, are considered as contract terms and conditions, are incorporated by reference into any Contract between Firm and the UCSFA and are accepted by Firm(s) as such.

Firms selected pursuant to this RFSQ shall enter into a Contract for municipal advisory services with the UCSFA, and once selected by a School through the Invitation to Bid process, shall execute with the School a Participating Entity Addendum to the municipal advisory services Contract.

6.10 Personnel Substitutions

Substitutions in personnel (those individuals listed by Firm under its response to “Firm Qualifications – Personnel,” section 4.2 of this RFSQ) who have ongoing responsibility for servicing Utah charter schools may not be made without the express written authorization of the UCSFA.

APPENDIX A: 53A-20B-201, CHARTER SCHOOL CREDIT ENHANCEMENT PROGRAM

53A-20b-201. Charter School Credit Enhancement Program -- Standards for the designation of qualifying charter schools -- Debt service reserve fund requirements.

- (1) There is created the Charter School Credit Enhancement Program to assist qualifying charter schools in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.
- (2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.
- (3) In establishing the standards described in Subsection (2) the authority shall consider:
 - (a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;
 - (b) the location of the charter school's project;
 - (c) the operating history of the charter school;
 - (d) the financial strength of the charter school; and
 - (e) any other criteria the authority determines are relevant.
- (4) The bonds issued by the authority for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:
 - (a) the revenues or other funds pledged by the qualifying charter school; and
 - (b) amounts appropriated by the Legislature pursuant to Subsection (9).
- (5) The authority shall notify the chartering entity of a charter school that the charter school is participating in the credit enhancement program if the authority:
 - (a) designates the charter school as a qualifying charter school; and
 - (b) issues bonds for the qualifying charter school under the credit enhancement program.
- (6) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.
- (7)
 - (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement.
 - (b) So long as the applicable bonds issued under the credit enhancement program remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:
 - (i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or
 - (ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.
- (8) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.
- (9)
 - (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

- (b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
 - (c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
 - (d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require.
- (10) The authority may create and establish other funds for its purposes.

Enacted by Chapter 201, 2012 General Session

APPENDIX B: MULTI-STEP BID FORM

Legal Company Name (include d/b/a if applicable) <input type="text"/>		Federal Tax Identification Number <input type="text"/>	State of Utah Sales Tax ID Number <input type="text"/>	
Ordering Address <input type="text"/>		City <input type="text"/>	State <input type="text"/>	Zip Code <input type="text"/>
Remittance Address (if different from ordering address) <input type="text"/>		City <input type="text"/>	State <input type="text"/>	Zip Code <input type="text"/>
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government		Company Contact Person <input type="text"/>		
Telephone Number (include area code) <input type="text"/>	Fax Number (include area code) <input type="text"/>	Email Address <input type="text"/>		
Price Guarantee Period (see attached specifications for any required minimums) <input type="text"/>				
Company's Internet Web Address <input type="text"/>				
The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes <input type="checkbox"/> No <input type="checkbox"/> . If no, enter where produced, etc. <input type="text"/>				
Offeror's Authorized Representative's Signature <input type="text"/>		Date <input type="text"/>		
Type or Print Name <input type="text"/>		Position or Title <input type="text"/>		

APPENDIX C: TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

STATE OF UTAH TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

1. **AUTHORITY:** Provisions of this contract ("Contract") are pursuant to the authority set forth in 63G-6, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this Contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The person or entity contracting with the State under this Contract ("Contractor") and any and all supplies, services, equipment, and construction furnished under this Contract will comply fully with all applicable Federal, and State, and local laws, codes, rules, regulations, and ordinances, including applicable licensure and certification requirements.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of, all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract. These records shall be retained by the Contractor for at least four years after the Contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency staff, access to all the records to this Contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **TIME:** The Contractor shall complete the scope of services work in a manner to achieve any milestones identified in the procurement documents related to this Contract and the attachments to this Contract. The full scope of services work shall be completed by any applicable deadline stated in the solicitation.
6. **TIME IS OF THE ESSENCE:** For all work and services under this Contract, time is of the essence and Contractor shall be liable for all damages to the State of Utah and anyone for whom the State of Utah may be liable, as a result of the failure to timely complete the scope of services required under this Contract.
7. **PAYMENT:** Invoices for services will be submitted to, and paid by, a trustee selected by the Financing Charter school to administer proceeds of the bond issue.
8. **PROMPT PAYMENT DISCOUNT:** Intentionally deleted.
9. **CHANGES IN SCOPE:** Any changes in the scope of the services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by duly authorized representatives of both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of services.
10. **DOCUMENT OWNERSHIP:** Contractor agrees that any work/services and all Deliverables prepared for State, to the extent to which it is eligible under copyright law in any county, shall be deemed a work made for hire, such that all right, title and interest in the work and Deliverables reside with the State. To the extent any work or Deliverable is deemed not to be, for any reason whatsoever, work made for hire, Contractor agrees to assign and hereby assigns all right, title, and interest, including but not limited to, copyright, patent, trademark, and trade secret, to such work and Deliverables, and all extensions and renewals thereof, to the State. Contractor further agrees to provide all assistance reasonably requested by State in the establishment, preservation and enforcement of its rights in such work and deliverables, or subsequent amendments or modifications to such work and deliverables, without any additional compensation to Contractor. Contractor agrees to waive, and hereby, to the extent permissible, waives, all rights relating to such work and deliverables, or subsequent amendments or modifications to such work and deliverables, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use.

- 11. CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify," only applies to contracts issued through a Request for Response process, and to sole sources that are included within a Request for Response. It does not apply to Invitation to Bids nor to the Multi-Step Process.

11.1 Status Verification System

- (1) Contractor certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Utah Code Ann. Section 63G-12-302.
- (2) The Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Utah Code Ann. Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
- (3) The State will not consider a response for award, nor will it make any award, where there has not been compliance with this Section.
- (4) Manually or electronically signing the Response is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws, including Utah Code Ann. Section 63G-12-302.

11.2 Indemnity Clause for Status Verification System

Contractor (includes, but is not limited to any Contractor or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Contractor's subcontractor or subconsultant at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.

- 12. CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with Section 67-16-8, Utah Code Annotated, 1953, as amended. Contractor also represents that it has no conflict of interest in performing the services for the State under this Contract, unless such conflict of interest has been disclosed to the State and approval to proceed, notwithstanding the conflict, has been obtained from the State in writing.
- 13. CONTRACTOR AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and Social Security amounts due as a result of payments received from the State for these Contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
- 14. INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all claims, loss, damages, injury, liability, suits, and proceedings arising out of the performance of this Contract which are caused in whole or in part by the acts or negligence of (a) the Contractor, (b) the Contractor's officers, agents, volunteers, or employees, (c) the Contractor's subcontractors or subconsultants at any tier, or (d) anyone for whom Contractor may be liable but not for claims arising from the State's sole negligence. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability for anyone for whom the Contractor is responsible, such Limitations of Liability will not apply to injuries to persons, including death, or to damages to property.
- 15. EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42 USC 2000e) which prohibits discrimination against any employee or applicant for

employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated December 13, 2006, which prohibits sexual harassment in the work place. Contractor also agrees to abide by any laws and policies of the State of Utah regarding any of the above mentioned prohibitions in this paragraph.

- 16. PERFORMANCE EVALUATION:** The State of Utah may conduct a performance evaluation of the Contractor's services, including specific personnel of the Contractor. References in the Contract to Contractor shall include Contractor, Contractor's subcontractors, or subconsultants at any tier, if any. Results of any evaluation will be made available to the Contractor.
- 17. WAIVERS:** No waiver by the State or Contractor of any default shall constitute a waiver of the same default at a later time or of a different default.
- 18. SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal authority, that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- 19. RENEGOTIATION OR MODIFICATIONS:** This Contract may be amended, modified, or supplemented only by written amendment to this Contract, executed by authorized persons of the parties hereto, and attached to the original signed copy of this Contract. Automatic renewals will not apply to this Contract.
- 20. SUSPENSION/DEBARMENT:** The Contractor certifies that neither it nor its principals are presently or have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract), by any governmental department or agency in the United States, including any federal, state or local agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if suspended or debarred by any governmental entity during the Contract period.
- 21. TERMINATION:**
- 21.1 Unless otherwise stated in the Additional Terms and Conditions of the State of Utah, if applicable, this Contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given thirty (30) working days after notification to correct and cease the violations, after which this Contract may be terminated for cause. This Contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given to the other party. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
- 21.2 In the event of such termination, the Contractor shall be compensated for services properly performed under this Contract up to the effective date of the notice of termination. The Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State is limited to full payment for all work properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of the Contractor having to terminate contracts necessarily and appropriately entered into by the Contractor pursuant to this Contract. Contractor further acknowledges that in the event of such termination, all work product, which includes but is not limited to all manuals, forms, contracts, schedules, reports, and any and all documents produced by Contractor under this Contract up to the date of termination are the property of the State and shall be promptly delivered to the State.
- 22. INSURANCE:**
- 22.1 To protect against liability, loss and/or expense in connection with the performance of services described under this Contract, the Contractor shall obtain and maintain in force during the entire period of this Contract without

interruption, at its own expense, insurance as listed below from insurance companies authorized to do business in the State of Utah and with an A.M. Best rating as approved by the State of Utah Division of Risk Management.

22.2 The following are minimum coverages that may be supplemented by additional requirements contained in the solicitation for this Contract or provided in an Attachment to this Contract:

- (1) Worker's Compensation Insurance and Employers' Liability Insurance. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction.
- (2) General Liability Insurance. Contractor must carry insurance with policy limits no less than one million per incident and three million in the aggregate. Contractor must provide proof of insurance to State and must add State as an additional insured with notice of cancellation.
- (3) Professional liability insurance in the amount as described in the solicitation for this Contract, if applicable.
- (4) Any other insurance described in the solicitation for this Contract, if applicable.

22.3 Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.

22.4 The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order.

23. **STANDARD OF CARE:** The services of Contractor and its subcontractors and subconsultants at any tier, if any, shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude and complexity of the services that are the subject of this Contract. The Contractor shall be liable to the State of Utah for claims, liabilities, additional burdens, penalties, damages or third party claims (i.e. another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors or omissions that do not meet this standard of care.
24. **STATE REVIEWS, LIMITATIONS:** The right of the State to perform plan checks, plan reviews, other reviews and/or comment upon the services of the Contractor, as well as any approval by the State, shall not be construed as relieving the Contractor from its professional and legal responsibility for services required under this Contract. No review by the State or any entity/user, approval or acceptance, or payment for any of the services required under this Contract shall be construed to operate as a waiver by the State of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the wrongful acts, errors and/or omissions of the Contractor or its subcontractors or subconsultants at any tier, if any.
25. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If the Legislature does not appropriate funds for paying the State's obligations on this Contract, or if funding to the State is reduced due to an order by the Governor, or is required by State law, or if Federal funding (when applicable) is not provided, the State may terminate this Contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice to Contractor. If this Contract is terminated, or services and purchase obligations are reduced due to nonappropriation of funds or reduction in funding, as described in the preceding sentence, the State will pay Contractor for services properly performed, and will reimburse Contractor for expenses incurred, as authorized under this Contract, through the date of cancellation or reduction, and this payment shall be Contractor's sole remedy, and the State will not be liable for any future commitments, penalties, or liquidated damages.
26. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is 11736850-010-STC, located at <http://purchasing.utah.gov/contract/documents/salestaxexemptionformsigned.pdf>. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the Contract.

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- 27. PUBLIC INFORMATION:** Contractor agrees that this Contract, related sales orders, and invoices shall be public documents, and shall be available for distribution. Contractor gives the State express permission to make copies of this Contract, related sales orders, and invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by the State Division of Purchasing, Contractor also agrees that the Contractor's response to the solicitation, if applicable, will be a public document, and copies may be given to the public under GRAMA laws. This permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
- 28. PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this Contract.
- 29. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the State.
- 30. DEFAULT AND REMEDIES:**
- 30.1 Any of the following events will constitute cause for the State to declare Contractor in default of this Contract:
- (1) Nonperformance of contractual requirements; or
 - (2) A material breach of any term or condition of this Contract.
- 30.2 Should Contractor be in default under any of the provisions under Subsection 30.1 above, the State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the State may do one or more of the following: (1) Exercise any remedy provided by law; (2) Terminate this Contract and any related contracts or portions thereof; (3) Impose liquidated damages, if liquidated damages are listed in the Contract; or (4) Suspend Contractor from receiving future solicitations.
- 31. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this Contract after determining such delay or default will reasonably prevent successful performance of this Contract.
- 32. PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6-1002, Utah Code Annotated, 1953, as amended).
- 33. CONFLICT OF TERMS:** In order for any terms and conditions of the Contractor to apply to this Contract, they must be in writing and attached to this Contract. No other terms and conditions of the Contractor will apply to this Contract, including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the terms and conditions in the Contract, the order of precedence shall be: (1) Attachment A: State of Utah Terms and Conditions; (2) State of Utah Contract Signature Page(s); (3) Additional Terms and Conditions of the State of Utah; (4) Terms and Conditions of the Contractor, if any.
- 34. ENTIRE CONTRACT:** This Contract including all attachments and documents incorporated hereunder, and the related State solicitation documents, if any, constitutes the entire Contract between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Contract shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a

representative of the State. The parties agree that the terms of this Contract shall prevail in any dispute between the terms of this Contract and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Contract.

- 35. DISPUTE RESOLUTION:** In the event of any dispute under this Contract prior to any filing in any judicial proceedings, the parties agree to participate in good faith in the mediation of the dispute. The State, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of the dispute. If the State appoints such an expert or panel, State and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.

(Revision date: 12 Apr 2013)

APPENDIX D: RFSQ EVALUATION SCORESHEET

Request for Qualifications: Municipal Advisor Utah Charter School Finance Authority SOLICITATION # _____

RFSQ EVALUATION SCORESHEET

Firm Name: _____

Evaluator: _____

Date: _____

Score will be assigned as follows:

0 = Failure, no response

1 = Poor, inadequate, fails to meet requirement

2 = Fair, only partially responsive

3 = Average, meets minimum requirement

4 = Above average, exceeds minimum requirement

5 = Superior

Any final fractional scores will be rounded up or down, with .5 rounding up.

Evaluation Criteria	Points Possible	Score (0-5)	Weight (0-3)	Points
1. Firm's financial strength & location (50 points possible)				
• Firm's financial strength	25		X5	
• Firm's location	25		X5	
2. Personnel (350 points possible)				
• Primary advisor's qualifications & experience	150		X30	
• Primary advisor's concentration	100		X20	
• Strength & depth of team	100		X20	
3. Firm's experience (525 points possible)				
• Overall experience	100		X20	
• FA experience – par	25		X5	
• FA experience – number of deals	25		X5	
• FA experience with charter schools – par	25		X5	
• FA experience with charter schools – number of deals	25		X5	
• Innovations for municipal/charter school issuers	25		X5	
• Analytical tools & resources	150		X30	
• Rating agency experience	25		X5	
• Pricing verification	125		X25	
4. Other (75 points possible)				
• References	25		X5	
• Litigation, investigations & compliance	25		X5	
• Other information	25		X5	
Total Evaluation Points:	(1000 points possible)		Total:	